

United States Postal Service

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Administrative Law Judge assigned to the Postal Service, conduct which, if displayed toward any court of any State, the United States, any of its Territories or the District of Columbia, would be cause for censure, suspension or disbarment; or

(6) Is otherwise guilty of misconduct or lacking in character or professional integrity.

(b) Before any person shall be censured, suspended or disbarred, he shall be afforded an opportunity to be heard by the Judicial Officer on the charges made against him. The General Counsel or his designee shall prosecute such cases.

(c) In the event the Judicial Officer is unavailable for any reason, he may assign complaints of misconduct to the Associate Judicial Officer, an Administrative Law Judge appointed pursuant to the provisions of the Administrative Procedure Act, an Administrative Judge appointed pursuant to the provisions of the Contract Disputes Act of 1978, or some other disinterested member of the headquarters staff of the Postal Service recommended by the Deputy Postmaster General, for the determinations required by § 951.5, the conduct of the hearings, and the decision to censure, suspend, or debar persons as provided herein.

[36 FR 11562, June 16, 1971, as amended at 51 FR 16517, May 5, 1986]

§ 951.7 Notice of disbarment; exclusion from practice.

Upon the disbarment of any person, notice thereof will be given to the heads of the departments of the Postal Service and to the other Executive Departments, and thereafter, until otherwise ordered, such disbarred persons will not be entitled to practice before the Postal Service or any department thereof.

§ 951.8 Ex parte communications.

The provisions of 5 U.S.C. 551(14), 556(d) and 557(d) prohibiting ex parte communications are made applicable to proceedings under these rules of practice.

[42 FR 5357, Jan. 28, 1977]

PART 952—RULES OF PRACTICE IN PROCEEDINGS RELATIVE TO FALSE REPRESENTATION AND LOTTERY ORDERS

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AUTHORITY: 39 U.S.C. 204, 401, 3005, 3012, 3016.

SOURCE: 76 FR 36320, June 22, 2011, unless otherwise noted.

§ 952.1 Authority.

These rules of practice are issued by the Judicial Officer of the United States Postal Service (see § 952.26) pursuant to authority delegated by the Postmaster General, and in accordance with 39 U.S.C. 3005, and are governed by the Administrative Procedure Act, 5 U.S.C. 551, *et seq.*

§ 952.2 Scope.

These rules of practice shall be applicable in all formal proceedings before the Postal Service under 39 U.S.C. 3005, including such cases instituted under prior rules of practice pertaining to

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these or predecessor statutes, unless timely shown to be prejudicial to Respondent.

§ 952.3 Informal dispositions.

This part does not preclude the disposition of any matter by agreement between the parties either before or after the filing of a complaint when time, the nature of the proceeding, and the public interest permit.

§ 952.4 Office business hours.

The offices of the officials identified in these rules are located at 2101 Wilson Boulevard, Suite 600, Arlington, VA 22201-3078, and are open Monday through Friday except holidays from 8:15 a.m. to 4:45 p.m.

§ 952.5 Complaints.

When the Chief Postal Inspector or his or her designated representative believes that a person is using the mails in a manner requiring formal administrative action under 39 U.S.C. 3005, he or she shall prepare and file with the Recorder a complaint which names the person involved; states the name, address and telephone number of the attorney representing Complainant; states the legal authority and jurisdiction under which the proceeding is initiated; states the facts in a manner sufficient to enable the person named therein to answer; and requests the issuance of an appropriate order or orders and/or the assessment of civil penalties. Complainant shall attach to the complaint a copy of the order or orders requested which may, at any time during the proceedings, be modified. The person named in the complaint shall be known as "Respondent", and the Chief Postal Inspector or his or her designee shall be known as "Complainant". The term "person" (1 U.S.C. 1) shall include any name, address, number or other designation under or by use of which Respondent seeks remittances of money or property through the mail.

§ 952.6 Interim impounding.

In preparation for or during the pendency of a proceeding initiated under 39 U.S.C. 3005, mail addressed to Respondent may be impounded upon obtaining an appropriate order from a United

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States District Court, as provided in 39 U.S.C. 3007.

§ 952.7 Notice of docketing and answer.

(a) Upon receipt of a complaint filed against a Respondent whose mailing address is within the United States, the Recorder shall issue a notice of docketing and answer due date stating the date for an answer which shall not exceed 30 days from the service of the complaint and a reference to the effect of failure to file an answer and/or the assessment of civil penalties authorized by 39 U.S.C. 3012. (See §§ 952.10 and 952.11).

(b) Upon receipt of a complaint filed against a Respondent whose mailing address is not within the United States, the Judicial Officer shall review the complaint and any supporting information and determine whether a prima facie showing has been made that Respondent is engaged in conduct warranting issuance of the orders authorized by 39 U.S.C. 3005(a). Where the Judicial Officer concludes that a prima facie showing has not been made the complaint shall be dismissed. Where the Judicial Officer concludes that a prima facie showing has been made, he or she shall issue a tentative decision and orders which:

(1) Set forth findings of fact and conclusions of law;

(2) Direct Respondent to cease and desist from engaging in conduct warranting the issuance of an order authorized by 39 U.S.C. 3005(a);

(3) Direct that postal money orders drawn to the order of Respondent not be paid for 45 days from date of the tentative decision;

(4) Direct that mail addressed to Respondent be forwarded to designated facilities and detained for 45 days from the date of the tentative decision subject to survey by Respondent and release of mail unrelated to the matter complained of;

(5) Tentatively assess such civil penalties as he considers appropriate under applicable law; and

(6) Provide that unless Respondent presents, within 45 days of the date of the tentative decision, good cause for dismissing the complaint, or modifying the tentative decision and orders, the